UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1993/NGO/19
8 February 1993

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Forty-ninth session
Item 10 of the provisional agenda

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[4 February 1993]

THE ADMINISTRATION OF JUSTICE IN THE PEOPLE'S REPUBLIC OF CHINA

1. Further to the information contained, in particular, in the report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the independence of the judiciary and the protection of lawyers (E/CN.4/Sub.2/1992/25, paras. 137-141 and 146-151), the International Federation of Human Rights (FIDH) draws the attention of the Commission on Human Rights to the fact that, according to its information, there have been no noticeable changes in the system of justice in China, the organization and functioning of which remain in flagrant contravention of international standards.

2. Thus the independence of the judiciary, although affirmed in the Constitution, is contradicted both in statutory instruments and in practice.

A. Appointment and powers of judges and procurators

3. Judges and procurators are appointed by the Party, whose guidelines they must apply. Although the Ministry of Justice indicated in November 1991 that a reform of the regulations on the judiciary was being planned, it has to be acknowledged that no reform has materialized.

4. The role of the Government Procurator's Office: the Government procurators, responsible by law for supervising police operations and ordering prosecutions, are in no position whatsoever to exercise control over the all-powerful Department of Public Security, which continues to operate with no supervision by the judiciary. There is no specific law defining the procurators' powers in this area, and they therefore remain without effect.

5. The procurators themselves acknowledge the inadequacy, or indeed lack of control over the Department of Public Security and the detention camps. This situation was confirmed in the 4 October 1991 issue of the Department of Public Security Gazette, which concluded that the procurators lacked control over the Department, owing in particular to their workload.

6. Since the entire police and judicial process is based on confession, torture in places of detention is a widespread and recognized practice, as the Department Gazette reports in its editions dated July to December 1991. Under these circumstances, the fate of persons arrested by the Department of Public Security, in particular as part of anti-crime campaigns directed against groups of so-called hooligans, is a matter of the gravest concern.

7. In addition, political arrests and detentions of opponents or supposed opponents of the regime are continuing, and they must once again be condemned. The following for example, are the names of some of the people arrested last June, all of whom are members of democratic movements. Most are students or teachers at the University of Lanzhou:

Gao Changyun	aged 28
Lu Yangua	aged 22
Xing Shimin	aged 22
Ding Mao	aged 25
Liu Baiyu	aged 25
Liu Wensheng	aged 24
Zhang Jian	aged 25
Xu Zhrndong	aged 25
Lu Yarin	aged 24
Cao Jianyu	

8. Other persons suspected of belonging to the "Social and Democratic Party of China" or the "Free Labour Union of China" were arrested in Peking during the same period. Their families have been kept in the dark about their fate. No information has been given on their place of detention or the charges against them.

B. Rights of the defence

9. The rights of the defence cannot be exercised freely: lawyers are under the control of the administration, which issues them a permit that has to be renewed each year. Their duties make contradictory demands on them: on the one hand, they are responsible for ensuring the application of laws and regulations which they cannot criticize in any way at the hearing, and, on the other, they are required to defend the accused.

10. A reform of the legal profession was announced in November 1991. The few authorizations (12) granted to international law firms, cannot mask the fact that the system continues to be organized in the same way, unchecked by any reform.

11. Solitary confinement is the usual practice during the period between arrest and trial. Only selected hearings and convictions are made public. Lawyers are not given access to their clients' files until a very short time before the hearing, a situation which they themselves have officially criticized.

C. The prison system and administrative detention

12. A distinction must be drawn between prisons under the control of the prison authorities and administrative detention centres. Complete secrecy surrounds the functioning of all of these establishments, which no humanitarian organizations have been authorized to visit despite repeated offers by several of them, including FIDH, to examine with the Chinese authorities, ways in which this might be arranged.

13. Official information as to the names of these camps, their activities and the people they contain is constantly changing and lacks all credibility. The Department of Public Security has authority over all the administrative detention camps, which can be subdivided as follows:

(a) Camps for re-education through work (laojiao);

(b) Centres for placement under protection pending inquiries (shourong shencha);

(c) Centres for administrative detention for breaches of public order (juliusuo kanshousuo);

(d) Administrative detention centres for minors under 16 years of age.

14. Several thousand persons have been placed in the administrative detention centres for breaches of public order, in particular after the 1989 events, for periods of up to two years or more, without being officially charged or even arrested. Wide use is made of this form of administrative detention. The numerous individuals of whom there has been no news are probably being held in these centres. According to consistent reports, judges with little or no training, recruited on a discretionary basis, subject to the influence of the Party and the Department of Public Security, lawyers who are unable to practise their profession freely, police services which act with no judicial control and torture and ill-treat people with impunity and administrative detention centres and prisons shrouded in secrecy characterize the administration of justice and the police force, the organization and functioning of which are in flagrant contradiction with international standards.

15. Once again, the International Federation of Human Rights calls on the Commission on Human Rights to give its opinion concerning this situation.